

## Unlikely Allies Back Three-Strikes Change

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A new effort to restrict California's controversial three-strikes law to violent offenders has been launched by strange bedfellows — Los Angeles County's top prosecutor and a prominent criminal-defense lawyer.

State officials said Tuesday that Los Angeles County Dist. Atty. Steve Cooley and Brian Dunn, an attorney with the law firm of the late Johnnie L. Cochran Jr., have jointly filed a proposed initiative called the Three Strikes Reform Act of 2006. A signature drive to get the measure on the November ballot could start as soon as next month.

The proposed measure calls for revisions to the state's 1994 three-strikes law, which provides for prison sentences of 25 years to life for a felony conviction if the person has two prior violent or serious offenses, or "strikes."

Currently any felony can serve as a third strike, but under the initiative, the third conviction would have to be for a violent or serious offense, except in cases in which the offender had previously committed murder, rape or child molestation.

Defendants whose third felony conviction was for a gun offense, possessing large quantities of drugs or some sex crimes, would not get easier treatment under the proposal: Their offenses would still count as third strikes.

The idea of a prosecutor and defense attorney working together to propose changes to the three-strikes law may seem odd, Dunn said. But "we are both interested fundamentally in making sure this law works fairly."

For prosecutors, the concern has been that continued public opposition to the perceived harshness of three strikes might ultimately trigger a political backlash. "Our slogan is fix it or lose it," Cooley said.

The proposal is the second effort in two years to put revisions to the three-strikes law before California voters. In November 2004, voters narrowly rejected Proposition 66, which would have broadly limited the law and redefined some of the crimes considered strikes. That measure, roundly opposed by prosecutors and law-enforcement interests, would have made

thousands of inmates eligible for resentencing.

Cooley and Dunn hope that their initiative, less drastic than Proposition 66, will draw broader support. It doesn't attempt to redefine first and second strikes, and is likely to make fewer inmates eligible for resentencing.

California voters approved Proposition 184, the three-strikes law, in 1994, when violent crime was near a historic peak. The idea was to crack down on repeat offenders. Some experts believe the law has been effective in reducing violent crime.

But it has also been criticized as unfair, too harsh and very expensive, since the state must spend a lot of money incarcerating people who did not commit recent violent crimes or who seem too old to pose much risk.

From the first, Cooley has expressed misgivings about the law. It was a major point of contention in his campaign against predecessor Gil Garcetti, whom Cooley defeated in 2000.

Since then, the district attorney's office has observed a policy of treating most nonviolent third felony offenses as second strikes, restricting third-strike prosecutions to violent crimes. Other district attorneys, such as San Francisco's, have opted for policies similar to Cooley's.

But across the state there has been wide variation, with some prosecutors regularly seeking terms of 25 years to life for less serious felonies.

The issue has been controversial for years. But it was Proposition 66 that propelled foes to work together: For Cooley, who opposed that measure, its near-passage and positive poll results in the early days of the campaign highlighted the political vulnerability of three strikes.

He reasoned that voters, in revolt against the law's perceived unfairness, might overturn or severely weaken it in the future if changes weren't made.

For Dunn, who supported Proposition 66, its failure demonstrated that some support from police and prosecutors would probably be needed for similar measures to pass in the future.

San Francisco Dist. Atty. Kamala Harris, also convinced that police and prosecutors needed to propose their own reforms to three strikes, had invited Cooley to help write proposed legislation on the issue in 2004, but no bill was introduced. At the same time, civil libertarians were working to try a Proposition 66-like measure again, with Dunn leading the charge.

This fall, Cooley invited Dunn to talk. They met in the district attorney's office — natural adversaries, discussing an issue on which they had been opponents. Dunn said he had low expectations. "The most I was hoping for was that he wouldn't torpedo us," he said.

But although the two men reportedly began the meeting stiffly, Dunn said they quickly found themselves deep in conversation. "It became a discussion about right and wrong," he said. They argued, found some points of agreement, refined their differences.

A few weeks later, a Cooley aide called Dunn and offered "a bombshell," Dunn said. "She said Cooley was interested in co-authoring this thing, and I just about dropped the phone."

They resumed negotiations. On Jan. 4, they filed their compromise with California Atty. Gen. Bill Lockyer.

Once he approves a title and summary for the measure, supporters must get 373,816 signatures on a petition to qualify it for the November ballot, state officials said.